

Minutes  
**Labor-Management Advisory Council**  
March 4, 2008  
10:00 am, Best Western Colonial Hotel, Helena

**Advisory Council members present:** Lt. Governor John Bohlinger, Bill Dahlgren, Annette Hoffman, Don Judge, Jason Miller, Danny Lee, Doug Buman, Bob Worthington, Connie Welsh, Riley Johnson, Jerry Keck

**Project team members present:** Diana Ferriter, Keith Messmer, Wade Wilkison, Jeanne Johns, Dave Elenbaas, Tyler Wiltgen, Sharon Peterson, Connie Ferriter, Mari Kindberg, Debbie Blossom, Judy Bovington, Jackie Williams, Anne Wolfinger

**Others present:** Marvin Jordan, MCCF; Bonnie Lyytinen-Hale, Kristin Marshall, HRC, Inc.; Tim Fitzpatrick, MSBA; Larry Jones, Liberty Northwest; Kris Wilkinson, LFO; Peter Strauss, Carl Kochman, Curtis Larsen, Patti Grosfield, MSF; Amy Salle, Rhonda Van Meter, Corvel; Mike Marsh, Midland Claims; Leah Tietz, MUS; Lance Zanto, WCMB/DOA; Jon Bennion, Montana Chamber; Jerry Davis, Broadspire; Spook Stang, Montana Motor Carriers Association; Katherine Dunlap, VMS; Greg Jackson, Keith Stapley, Emelia McEwen, Wendy Sesselman, MACo Claims.

### **I. Welcoming & Introductions**

All present introduced themselves.

### **II. Approval of Agenda/Minutes**

The agenda was approved. The minutes of the January 8, 2008, meeting were approved.

### **III. Return-to-Work Research**

Tyler Wiltgen, a workers' compensation analyst with the Employment Relations Division (ERD), presented research on return-to-work (RTW), done at the request of the Labor-Management Advisory Council (LMAC). He and Erin Austin, also a workers' compensation analyst, based their research on data reported to the Department of Labor and Industry through the WCAP and unemployment insurance systems. The goal was to explain RTW duration by system drivers and look at potential policy change areas. There were three conclusions from the research: (1) individual, injury, and stakeholder characteristics have no major impacts on RTW duration, (2) the type of indemnity benefit received does not influence RTW duration, and (3) medical payments (severity or perceived severity) impact RTW time more than any other variables in the model.

Diana Ferriter, chief of the Claims Assistance Bureau, presented a summary of state comparisons of vocational rehabilitation of disabled workers, a report in the *2007 Analysis of Workers' Compensation Laws* published by the U.S. Chamber of Commerce. The report discussed how vocational rehabilitation was made available and paid for in different states.

### **IV. MT 60 Summits Update**

Georgiana (George) Kochman, project manager, explained the purpose of the MT 60 Summits project is to help Montana implement the Association for Certified Occupational and Environmental Medicine (ACOEM) guideline on stay-at-work/return-to-work. Three workshops will occur in Billings, Great Falls and Missoula the week of April 20<sup>th</sup>. Invitations to participate will be sent out later in the week. She discussed the planning committees, target audiences, agenda, cost, publicity efforts. Lt. Governor Bohlinger offered to have the invitations sent out under his signature.

### **V. Claims Examiners**

Jason Miller reported on the meeting of the LMAC subcommittee on licensure of claims examiners, which met Monday, March 3. The main outcome was the decision to set up a working group composed of two members from Plan III, two members from Plan II, two members from Plan I, two members from TPAs, one injured worker, one member from the State Auditor's Office, and one member from ERD. Any interested LMAC members are welcome to participate. The group is to meet within the next two months and bring back a proposal to the subcommittee and the LMAC by the next meeting, May 6.

## **VI. Claims Closure/Settlement**

Diana Ferriter provided more information on the topic of claims closure/settlement introduced at the last LMAC meeting. She differentiated between statutory claims closure and settlements and presented a summary of articles from the *2006 Edition of Workers' Compensation Law* by ALFA International. The LMAC discussed appropriateness of settlements and claim closure, possible cost shifting, coordination of benefits, and other concerns. Jerry Keck outlined the next steps: (1) determine if claim closure for indemnity is appropriate and (2) if the LMAC is comfortable with the current process for settlements.

## **VII. Medical Topics**

Keith Messmer reported on the status of the facility fee schedule work and invited anyone who was interested to attend meetings on March 5th meeting the Department was having with hospital association and ambulatory surgery center representatives to continue discussions regarding details of the fee schedule.

## **VIII. Workers' Compensation Exemptions**

Diana Ferriter presented a draft of legislation for exemptions with changes made based on input from the last LMAC meeting.

## **IX. Legislative Concepts**

Jerry Keck distributed and discussed a handout listing 14 possible legislative proposals in the areas of safety, medical cost containment, RTW/Stay-at-Work, claims closures, and miscellaneous. Jerry explained that legislation requested by the LMAC would likely go for sponsorship to the Economic Affairs Interim Committee, which will meet in September. Regarding the timeline, ERD will find out what is required.

## **X. Public Comment**

Lance Zanto from the Department of Administration reported they are conducting a survey of the safety culture within state government along with the Montana State Fund. Results are expected by the end of May.

## **XI. Next Steps**

Jerry acknowledged the work of several people: Diana Ferriter and her staff for the RTW research and work on claims closure/settlements, and claims examiners; Keith Messmer and his staff for their ongoing work on medical and facility fee schedules; Judy Bovington for her legal assistance; Jeff Lazarus as the new Safety Bureau Chief; George Kochman for the work on 60 Summits and the safety initiative; and the many stakeholders and LMAC members who have participated in activities since the last meeting.

Set up and convene stakeholder group on claims examiner licensure	ERD staff and LMAC subcommittee on claims examiner licensure	May-05-2008
Determine timeline for submission of legislative proposals to the Economic Affairs Interim Committee	ERD staff	May-06-2008
Ask NCCI for pricing of potential savings from closure of claims as being discussed	Department staff	May-06-2008
Evaluate/report on recent Supreme Court decisions affecting course and scope	Department staff	May-06-2008

## **XII. Next Meeting**

Tuesday, May 6, 2008, Best Western Great Northern, Helena